

**ORIGINAL**

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

**RECEIVED**

**DEC 10 1998**

**FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY**

In the Matter of )  
)  
)

Implementation of the Pay Telephone )  
Reclassification and Compensation )  
Provisions of the Telecommunications )  
Act of 1996 )  
)

CC Docket No. 96-128

**To: Chief, Common Carrier Bureau**

**MOTION FOR DEFERRAL OF THE EFFECTIVE  
DATE OF THE PAYPHONE ORDER'S CALL  
TRACKING VERIFICATION REQUIREMENT**

Albert H. Kramer  
Robert F. Aldrich  
DICKSTEIN SHAPIRO MORIN  
& OSHINSKY LLP  
2101 L Street, N.W.  
Washington, DC 20037-1526

Attorneys for the American Public  
Communications Council

December 10, 1998

No. of Copies rec'd  
List ABCDE

0+4

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

---

In the Matter of )

Implementation of the Pay Telephone )  
Reclassification and Compensation )  
Provisions of the Telecommunications )  
Act of 1996 )

---

CC Docket No. 96-128

**To: Chief, Common Carrier Bureau**

**MOTION FOR DEFERRAL OF THE EFFECTIVE  
DATE OF THE PAYPHONE ORDER'S CALL  
TRACKING VERIFICATION REQUIREMENT**

The American Public Communications Council ("APCC") hereby requests that the Commission postpone, until calendar year 1999, the effective date of the Payphone Order's requirement for carrier verification of per-call tracking functions for purposes of per-call payphone compensation.

**STATEMENT OF INTEREST**

APCC is a national trade association representing over 3,000 independent providers of pay telephone equipment, services, and facilities. APCC seeks to promote competitive markets and high standards of service for pay telephones. To this end, APCC has actively participated in all FCC proceedings addressing payphones and payphone compensation.

## **BACKGROUND**

In the original Payphone Order, the Commission set a deadline of October 7, 1997, for all carriers to begin tracking compensable calls and paying per-call compensation for “each and every” compensable call. In order to permit review of carriers’ implementation of the per-call tracking and compensation requirement, the Commission required carriers to perform a verification of per-call tracking functions for a one-year period following the implementation date. Specifically, carriers are required to maintain appropriate records and to certify the accuracy of their tracking methodology and the data used to pay per-call compensation. The contents of the certification, apart from any proprietary data, must be made available to payphone service providers (“PSPs”) on request.<sup>1</sup>

The verification procedure is important so that the FCC and PSPs can ensure that interexchange carriers (“IXCs”) are complying with call tracking requirements. For example, the FCC and PSPs need to be able to confirm that the carrier is able to identify compensable calls. The FCC and PSPs should also be able to learn *how* the carrier identifies compensable calls -- i.e., whether the carrier is utilizing payphone-specific digits only or is also employing other methods of tracking calls and how the carrier matches compensable calls with PSPs. In addition, PSPs should be able to verify how a facilities-based carrier determines whether the facilities-based carrier or a reseller customer is

---

<sup>1</sup> Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128, Report and Order (“Payphone Order”), 11 FCC Rcd 20,541, ¶101 (1996).

responsible for paying compensation for a call. Memorandum Opinion and Order, DA 98-642, released April 3, 1998, ¶ 38. The Commission expects PSPs and carriers to work together to explain or reconcile any PSP data that are inconsistent with the carrier's annual certification. Payphone Order, ¶ 101.

At the time the verification requirement was adopted, there was a requirement that per-call compensation be fully implemented as of the October 7, 1997 deadline. Id., ¶ 99. Therefore, the Commission required verification of per-call compensation and tracking only for the calendar year immediately following the implementation date for per-call compensation, i.e., January 1 through December 31, 1998. Id.

Subsequently, however, it developed that local exchange carriers ("LECs") were not able to provide -- for the "dumb" payphone lines serving the "smart" payphones used predominantly by independent PSPs -- the payphone-specific coding digits deemed necessary for per-call tracking by the October 7, 1997 effective date. Order, 12 FCC Rcd 16,387 (Com. Car. Bur. 1997). On March 9, 1998 the Common Carrier Bureau released an order clarifying, and granting temporary waivers of, the requirement that LECs use "FLEX ANI" to provide payphone-specific coding digits. Memorandum Opinion and Order, DA 98-481, released March 9, 1998, ¶ 2. IXC's, in turn, were allowed to delay payment of compensation on a per-call basis for payphones for which payphone-specific coding digits were not available. Memorandum Opinion and Order, DA 98-642, released April 3, 1998, clarified, Order, DA 98-701, released April 10, 1998. For all affected smart payphones, an IXC could elect to pay compensation on a flat-rate basis (based on its average per-call payments for RBOCs' dumb payphones), until the IXC began receiving payphone-specific coding digits from the LECs serving the payphones. Id. Alternatively,

an IXC that was able to pay compensation for smart payphones on a per-call basis without relying on payphone-specific coding digits could elect to do so. *Id.*

As a result of these waivers, there has been a substantial delay in the full implementation of per-call compensation. The deadlines for LEC implementation of payphone-specific coding digits have been postponed for periods ranging from eight to fifteen months. Most of the large LECs were required to complete implementation of payphone-specific coding digits by June 9, 1998; however, U S West, GTE and the smaller LECs have until December 31, 1998 to complete implementation of payphone-specific coding digits. IXCs are not required to begin tracking calls from affected payphones until the calendar quarter that begins 30 days after the implementation date.

### **DISCUSSION**

Due to these delays in implementation of payphone-specific call tracking, it would be premature for the Commission to find that carriers have adequately verified their per-call tracking capabilities. For the reasons stated below, the Commission should defer the effective date of the verification requirement and require carriers to perform verification of call tracking capabilities until the end of calendar year 1999.

First, in many geographic areas LECs did not finish deploying FLEX ANI until late in 1998. Consequently, IXCs are not required to begin per-call compensation payments for smart payphones in these areas until 1999.

In other areas, LECs are supposed to have completed deployment of FLEX ANI in the course of 1998. However, actual utilization of FLEX ANI-delivered coding digits

has been far from uniform, even for payphones served by the same central office. For example, AT&T's payment reports for the second quarter of 1998 show that in many cases, AT&T paid per-call compensation for one smart payphone and flat-rate compensation for another smart payphone, even though the payphones shared the same NXX code and were served by the same central office. Given this spotty implementation record, it is clearly premature to verify the accuracy of AT&T's per-call tracking capabilities based on 1998 results.

Other IXC's -- MCI, for example -- have reported that in 1998 they were able to pay compensation on a per-call basis by relying on mechanisms other than FLEX-ANI-delivered payphone-specific coding digits to identify payphone calls. In the future, however, MCI has informed PSPs that it will rely solely on payphone-specific digits and will not pay compensation on any call that does not have payphone-specific coding digits. Thus, MCI's experience in using alternative methods to track payphone calls in 1998 cannot help to verify whether MCI will be in compliance with the call tracking requirements in the future, when MCI intends to rely solely on payphone-specific digits.

Finally, there is also no basis, as yet, for verifying that resellers are in compliance with the call-tracking requirement. To date, only a few resellers have made any compensation payments to APCC members -- even though MCI claims that numerous reseller customers have assumed responsibility for paying compensation and has withheld millions of dollars in compensation payments based on that claim.

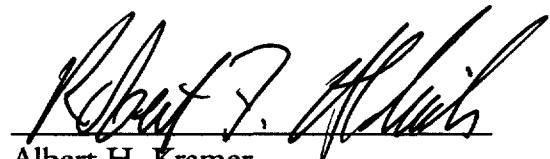
In summary, given the erratic implementation of per-call tracking requirement by LECs and IXC in 1998,<sup>2</sup> it is premature for the Commission to conclude that there has been adequate verification of IXC compliance with per-call tracking requirements.

### CONCLUSION

In order to ensure a fully functioning per-call compensation system, the Commission should postpone the effective date of the period for which verification of IXC call tracking capabilities is required until the calendar year beginning January 1, 1999 and ending December 31, 1999. Postponing the verification period for one year will allow the industry to have a full year of experience with per-call compensation utilizing payphone-specific digits for smart payphones and should make possible a more accurate verification of per-call tracking capabilities.

Dated: December 10, 1998

Respectfully submitted,



Albert H. Kramer  
Robert F. Aldrich  
DICKSTEIN SHAPIRO MORIN  
& OSHINSKY LLP  
2101 L Street, N.W.  
Washington, D.C. 20037-1526  
(202)828-2226

Attorneys for the American Public  
Communications Council

---

<sup>2</sup> APCC is exploring what remedies it will pursue to recover unpaid compensation for this period.

**CERTIFICATE OF SERVICE**

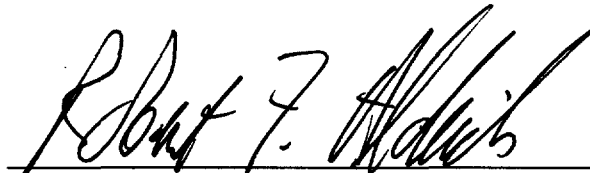
I hereby certify that on December 10, 1998, a copy of the foregoing Motion for Deferral of the Effective Date of the Payphone Order's Call Tracking Verification Requirement was delivered by first-class U.S. Mail, postage pre-paid to the following parties:

Lawrence E. Strickling, Chief  
Common Carrier Bureau  
Federal Communications Commission  
1919 M Street, N.W.  
Room 500  
Washington, DC 20554

Kurt Schroeder  
Network Services Division  
Common Carrier Bureau  
Federal Communications Commission  
2000 M Street, NW, Room 230  
Washington, DC 20554

Glenn Reynolds  
Enforcement Division  
Common Carrier Bureau  
Federal Communications Commission  
2025 M Street, NW  
Room 6008

ITS  
1231 20<sup>th</sup> Street, N.W.  
Washington, DC 20036

  
\_\_\_\_\_  
Robert F. Aldrich